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**BEFORE THE  
PHYSICAL THERAPY BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 2005 64420

Larry James Lindley  
24361 Woodwalk Road  
Lake Forest, California 92630

**A C C U S A T I O N**

Physical Therapist No. PT 24979,

Respondent.

Complainant alleges:

**PARTIES**

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California ("Board").

2. On or about February 11, 2000, the Board issued Physical Therapist Number PT 24979 to Larry James Lindley (Respondent). This license was in full force and effect at all times relevant to the charges and will expire on September 30, 2007, unless renewed.

**JURISDICTION**

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2602 of the Code states: "The Physical Therapy Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter

1 5.7, the Physical Therapy Practice Act].”

2 5. Section 2609 of the Code states: “The board shall issue, suspend, and  
3 revoke licenses and approvals to practice physical therapy as provided in this chapter.”

4 6. Section 2660 of the Code states in pertinent part:

5 “The board may suspend...or revoke, or impose probationary conditions upon any  
6 license, certificate, or approval issued under this chapter for unprofessional conduct that  
7 includes, but is not limited to, one or any combination of the following causes:

8 “ . . .

9 “(d) Conviction of a crime which substantially relates to the qualifications,  
10 functions, or duties of a physical therapist or physical therapy assistant. The record of  
11 conviction or a certified copy thereof shall be conclusive evidence of that conviction.”

12 “...

13 “(i) Conviction of a violation of any of the provisions of this chapter or of the  
14 State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or  
15 assisting in or abetting the violating of, or conspiring to violate any provision or term of  
16 this chapter or of the State Medical Practice Act.”

17 “...

18 “(l) The commission of any fraudulent, dishonest, or corrupt act which is  
19 substantially related to the qualifications, functions, or duties of a physical therapist or physical  
20 therapist assistant.”

21 7. Section 2661 of the Code states:

22 “A plea or verdict of guilty or a conviction following a plea of nolo contendere  
23 made to a charge of a felony or of any offense which substantially relates to the  
24 qualifications, functions, or duties of a physical therapist is deemed to be a conviction  
25 within the meaning of this article. The board may order the license suspended or  
26 revoked, or may decline to issue a license, when the time for appeal has elapsed, or the  
27 judgment of conviction has been affirmed on appeal or when an order granting probation  
28 is made suspending the imposition of sentence, irrespective of a subsequent order under

1 Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of  
2 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing  
3 the accusation, information, or indictment.”

4 8. Section 2239 of the Code states in pertinent part:

5 “(a) The use or prescribing for or administering to himself or herself, of any  
6 controlled substance; or the use of any of the dangerous drugs specified in Section 4022,  
7 or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or  
8 injurious to the licensee, or to any other person or to the public ... or any combination  
9 thereof, constitutes unprofessional conduct. The record of the conviction is conclusive  
10 evidence of such unprofessional conduct.

11 9. Section 490 of the Code states:

12 “A board may suspend or revoke a license on the ground that the licensee has  
13 been convicted of a crime, if the crime is substantially related to the qualifications,  
14 functions, or duties of the business or profession for which the license was issued. A  
15 conviction within the meaning of this section means a plea or verdict of guilty or a  
16 conviction following a plea of nolo contendere. Any action which a board is permitted to  
17 take following the establishment of a conviction may be taken when the time for appeal  
18 has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order  
19 granting probation is made suspending the imposition of sentence, irrespective of a  
20 subsequent order under the provisions of Section 1203.4 of the Penal Code.”

21 10. California Code of Regulations, Title 16, section 1399.20, states:

22 “For the purposes of denial, suspension, or revocation of a license, pursuant to  
23 Division 1.5 (commencing with Section 475) of the code, a crime or act shall be  
24 considered to be substantially related to the qualifications, functions or duties of a person  
25 holding a license under the Physical Therapy Practice Act if to a substantial degree it  
26 evidences present or potential unfitness of a person to perform the functions authorized  
27 by the license in a manner consistent with the public health, safety, or welfare. Such  
28 crimes or acts shall include but not be limited to the following:

1 “ (a) Violating or attempting to violate, directly or indirectly, or assisting in or  
2 abetting the violation of, or conspiring to violate any provision or term of the Physical  
3 Therapy Practice Act.”

4 “...

5 “(c) Violating or attempting to violate any provision or term of the Medical  
6 Practice Act.”

### 7 **COST RECOVERY**

8 11. Section 2661.5 of the Code states in pertinent part:

9 "(a) In any order issued in resolution of a disciplinary proceeding before the  
10 board, the board may request the administrative law judge to direct any licensee found guilty of  
11 unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of  
12 the investigation and prosecution of the case."

13 “...

14 “(d) In any judicial action for the recovery of costs, proof of the board’s decision  
15 shall be conclusive proof of the validity of the order of payment and the terms of payment.”

### 16 **FIRST CAUSE FOR DISCIPLINE**

17 (Conviction of a Crime)

18 12. Respondent is subject to disciplinary action under sections 2660(d)(i),  
19 2661, 2239(a), and 490 of the Code, and Title 16, section 1399.20, subdivision (a) of the  
20 California Code of Regulations in that he was convicted of a crime substantially related to the  
21 qualifications, functions or duties of a physical therapist. The circumstances are as follows:

22 A. On or about February 3, 2005, a criminal pre-trial proceeding  
23 commenced against Respondent in the matter of *People vs. Larry James Lindley*,  
24 in Superior Court, County of Orange, Case Number 04HMO9864, charging him  
25 with two offenses: Violation of Vehicle Code sections 23152(a) (Driving Under  
26 the Influence) and 23152(b) (Per Se Violation, 0.08 percent or more), both  
27 misdemeanors.

28 B. On or about February 3, 2005, Respondent was convicted of

1 misdemeanor DUI by pleading guilty to violating Vehicle Code Section 23152 (b)  
2 which states, "It is unlawful for any person who has 0.08 percent or more, by  
3 weight, of alcohol in his or her blood to drive a vehicle."

4 C. After the conviction, Respondent was placed on probation for three  
5 years, ordered to pay a fine of \$1,471.50, had his driver's license restricted for 90  
6 days, and was ordered to attend and complete a three-month Level 1 First  
7 Offender Alcohol Program.

8 D. The facts and circumstances surrounding this offense are as  
9 follows: On or about November 24, 2004, an Irvine police officer stopped a  
10 vehicle Respondent was driving for traveling at a high rate of speed while coming  
11 off the freeway, not using his blinkers, and having no front license plate. The  
12 police officer spoke to Respondent and observed objective signs of intoxication.  
13 Respondent informed the police that he had consumed alcoholic beverages. The  
14 police officer requested that an additional officer respond to the scene to assist  
15 with the traffic stop.

16 E. Based on the officer's observations of Respondent's driving,  
17 Respondent's objective signs and symptoms of alcohol intoxication, as well as his  
18 performance on the field sobriety test, Mr. Lindley was arrested for having  
19 violated Vehicle Section 23152 (a). After he consented to a blood test, he was  
20 transported to the Irvine Police Department where the blood test was conducted.  
21 The results revealed that Respondent had a .15% blood alcohol content, well over  
22 the legal maximum. Respondent was subsequently booked for violations of  
23 Vehicle Code Sections 23152(a)(b). Respondent's vehicle was also towed per  
24 California Vehicle Code Section 22651(h).

## 25 **SECOND CAUSE FOR DISCIPLINE**

26 (Dishonest Act)

27 13. Respondent is subject to disciplinary action under section 2660(l) of the  
28 Code in that he committed a dishonest act which is substantially related to the qualifications,

1 functions, or duties of a physical therapist. The circumstances are as follows:

2           A.     The material set forth in the preceding paragraph is incorporated  
3           herein by reference as though fully set forth at this point.

4           B.     An Irvine Police Department incident report describing  
5           Respondent's vehicle stop and arrest was prepared on or about November 25,  
6           2004. According to the police report, Respondent was taken into custody and then  
7           was released soon thereafter, with his promise to appear at a later date. The police  
8           report further indicated that his car was towed per Vehicle Code Section  
9           22651(h), stating "Lindley was booked, processed, and later released with his  
10          promise to appear. Lindley's vehicle was towed per CVC [California Vehicle  
11          Code section] 22651(h)."

12          C.     On December 28, 2005, the Board requested from Respondent a  
13          written explanation of the incident described above.

14          D.     In a letter dated January 17, 2006 replying to the Board's inquiry,  
15          Mr. Lindley described the circumstances surrounding his arrest and transport to  
16          the police department for a blood test, and concluded by stating, "I was held for  
17          approximately two hour and subsequently released. I walked to my vehicle and  
18          proceeded to drive home." (Emphasis added.) This statement is inconsistent  
19          with the circumstances described in the police report which related that Mr.  
20          Lindley's vehicle was towed away after his arrest and constitutes a dishonest act  
21          substantially related to his professional qualifications, functions, or duties.

1 **PRAYER**

2 **WHEREFORE**, Complainant requests that a hearing be held on the matters  
3 herein alleged, and that following the hearing, the Physical Therapy Board issue a decision:

4 1. Revoking or suspending Physical Therapist Number PT 24979, issued to  
5 Larry James Lindley.

6 2. Ordering him to pay the Physical Therapy Board the reasonable costs of  
7 the investigation and enforcement of this case, and if placed on probation, the costs of  
8 monitoring.

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: July 10, 2006

11  
12  
13 Original Signed By:  
14 STEVEN K. HARTZELL  
15 Executive Officer  
16 Physical Therapy Board of California  
17 State of California  
18 Complainant  
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